

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

"Jury Trial Demanded"

EDGAR D. TELESFORO

530 Parkside Avenue

Brooklyn, N.Y. 11226

NAME OF PLAINTIFF(S)

CV 16

8197

COMPLAINT

New York City Department
of Education.

AMON, CH.J.

GOLD, M.J.

NAME OF DEFENDANT(S)

This action is brought for discrimination in employment pursuant to (check only those that apply):

☒

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring a suit in federal district court under Title VII, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

☒

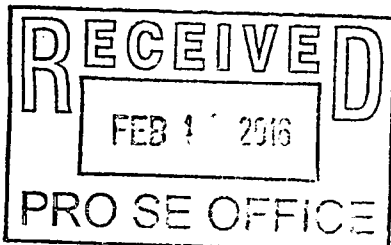
Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub. L. No. 92-592, the Civil Rights Act of 1991, Pub. L. No. 102-166).

NOTE: In order to bring a suit in federal district court under the Age Discrimination in Employment Act, you must first file charges with the Equal Employment Opportunity Commission.

☒

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117 (amended by the ADA Amendments Act of 2008, Pub. L. No. 110-325 and the Civil Rights Act of 1991, Pub. L. No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No. 16-cv-00819

February 12, 2016

James M. Gold, Plaintiff

vs.

James M. Gold, Defendant

Case No. 16-cv-00819

AMON, CH.

GOLD, M.J.

FILED 1/16/16

UNITED STATES DISTRICT COURT

This action is brought for declaratory judgment and injunctive relief only.

Plaintiff, James M. Gold, brings this action against Defendant, James M. Gold, for declaratory judgment and injunctive relief. Plaintiff seeks a declaration that his ownership of the copyright in the work entitled "The Gold Standard" is valid and enforceable, and that Defendant's alleged infringement of Plaintiff's copyright is unlawful. Plaintiff also seeks an injunction against Defendant from further infringing Plaintiff's copyright.

Plaintiff alleges that Defendant has infringed Plaintiff's copyright in the work entitled "The Gold Standard" by copying and distributing the work without Plaintiff's permission. Plaintiff alleges that Defendant's infringement is willful and intentional, and that Plaintiff has suffered significant harm as a result of Defendant's actions. Plaintiff seeks a declaration that his ownership of the copyright is valid and enforceable, and that Defendant's alleged infringement is unlawful.

Plaintiff seeks a declaration that his ownership of the copyright in the work entitled "The Gold Standard" is valid and enforceable, and that Defendant's alleged infringement of Plaintiff's copyright is unlawful. Plaintiff also seeks an injunction against Defendant from further infringing Plaintiff's copyright. Plaintiff seeks damages for Defendant's infringement, including reasonable attorney's fees and costs.

Jurisdiction is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub. L. No. 102-166, and any related claims under New York law.

1. Plaintiff resides at:

530 Parkside Avenue #3B
Street Address
Kings, N.Y., 11226, 718-864-1070
County State Zip Code Telephone Number

2. Defendant(s) resides at, or its business is located at:

52 Chambers Street Room 308
Street Address
New York, N.Y., N.Y., 10017
County City State Zip Code

3. The address at which I sought employment or was employed by the defendant(s) is:

605 Shepherd Avenue
Street Address
Kings, Brooklyn, N.Y., 11208
County City State Zip Code

...
...
...
...

230 Riverside Avenue #38

King's N.Y. 11250 418-824-1050

22 Chambers Street Room 308

New York N.Y. 10014

202 Shepherd Avenue

King's N.Y. 11208

4. The discriminatory conduct of which I complain in this action includes
(check only those that apply).

☐ Failure to hire.

☒ Termination of my employment.

☐ Failure to promote.

☒ Failure to accommodate my disability.

☐ Unequal terms and conditions of my employment.

☒ Retaliation

☒ Other acts (specify): Disparate Treatment.

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

5. It is my best recollection that the alleged discriminatory acts occurred on:

06/2014 - 6/2015
Date(s)

6. I believe that the defendant(s) (check one)

☐ is still committing these acts against me.

☒ is not still committing these acts against me.

7. Defendant(s) discriminated against me based on my:
(check only those that apply and state the basis for discrimination, for example,
what is your religion, if religious discrimination is alleged)

☒ race African American ☐ color _____

☐ gender/sex _____ ☐ religion _____

☐ national origin _____

☒ disability Disabling injury: broken ankle + tibia. (Tib-fib).

☒ age. If age is checked, answer the following:

I was born in 1959. At the time(s) defendant(s) discriminated against me,
Year

I was ☒ more ☐ less than 40 years old. (check one).

Treatment started

10/10/15 - 10/10/15

10/10/15 - 10/10/15

10/10/15 - 10/10/15

10/10/15 - 10/10/15

NOTE: *Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.*

8. The facts of my case are as follows:

Please see Attached pages.

(Attach additional sheets as necessary)

NOTE: *As additional support for your claim, you may attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights, or the New York City Commission on Human Rights.*

9. It is my best recollection that I filed a charge with the New York State Division of Human Rights or the New York City Commission on Human Rights regarding defendant's alleged discriminatory conduct on: 02/20/2015.
Date

10. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct on 02/20/2015.
Date

any other person who is a party to the litigation, and the court shall
determine the appropriate relief to be granted.

IT IS SO ORDERED.

9/28/16
Attorney
B. J. ...

any other person who is a party to the litigation, and the court shall
determine the appropriate relief to be granted.

any other person who is a party to the litigation, and the court shall
determine the appropriate relief to be granted.

02/08/20

02/08/20

Date: 02/11/2016

Edgar D. Telesford.
530 Parkside Avenue #3B
Brooklyn, NY 11226
718-864-1070

The Facts of My Case are as Follows:

Retaliation

1. **On June 6th, 2014 I was on a field trip when several people engaged in a tug of war game fell on my leg during the game. As a result my leg was broken in several places (tibia and fibula). I was taken to Jamaica Hospital Center, where I was hospitalized for five days.**
2. **Beginning June 09, 2014 I was subjected to blatant delays in my medical leave paperwork; demands about when I will be returning to work, demands for me to show up in meetings days after my debilitating injuries to discuss verbal abuse allegations that never materialized; and there were demands that I retrieve forms from the school secretary days after being released from the hospital, in a full leg cast.**
3. **On June 23, 2014 I sent an email letter to Superintendent Joyce Stallings-Harte, objecting to my treatment by the Principal Small, The Assistant Principal Mr. Lee, and the secretary Ms. Capozello.**
4. **On June 25th, 2014, two days later I received an intimidating letter from principal Small demanding that I return school property and threatening me with imprisonment.**
5. **By July 8th, 2014, Principal Small informed me of the following: "Please be advised ...After careful review of your performance, I have submitted a recommendation for denial of tenure." This was the first time that I was informed that Principal Small would recommend to deny me tenure. The timing of Mr. Small actions on the heels of my disabling injury and complaints about my treatment, clearly shows discriminatory and retaliatory treatment.**
6. **Prior to becoming disabled, and emailing the Superintendent, I was asked to take part in two school summer programs.**
7. **My probationary period, which did not end until November 22, 2014, had not come to an end and there was no indication that my probationary employment would be terminated at the end of that term.**

Page 2 of 4

Disparate Treatment

8. As per the Advance evaluation system, an overall rating of “developing” is not the same as “ineffective,” which would warrant termination. No teacher who received “developing” ratings were terminated as a result of receiving “developing” ratings.
9. Furthermore, Mr. Small’s notice violated the established procedures by which probationary teachers are informed of their respective Principal’s recommendation to deny tenure, as set forth in Article 4, Section 4.3.2 of DOE’s bylaws. At the time of the notice, I was not afforded even a modicum of the due process required.
10. My overall final evaluation for the year, dated May 27th, 2014 was rated as “developing” in 12 areas and “effective” in 5. Notwithstanding that the first year I was removed from the classroom for three months (due to allegations that were proven to be false and unsubstantiated) and reassigned to duties that were outside my duties as a science teacher for the remaining 5 months.
11. On my overall rating as a teacher, I received “developing.” I was not rated as “ineffective” and as of the end of 2013-2014 school year, there was no suggestion that my employment would be terminated for performance related reasons.
12. At no time during the 2013-2014 school year did Mr. Small issue a Teacher Improvement Plan(TIP)for me, which is warranted for developing teachers deemed ineffective or developing and in jeopardy of being terminated.
13. The decision to terminate my employment was made after I became disabled as a result of an Line of Duty Injury(LODI).

Race and Age

14. At the time of my employment, I was the the only African American male teacher, and the oldest (54 y.o.) on the staff of teachers. I was treated differently from the other younger white colleague in similar manner: First, I was not provided the support or the professional development necessary to achieve tenure within the first year, which required me to agree to an extension of probation until November 2014. I was removed from my classroom, due to unsubstantiated charges, for approximately three months shortly after I was hired as a science teacher.
15. Upon my return I was assigned to work that would have not supported my candidacy for tenure as a science teacher.
16. I was assigned to oversee the SAVE detention room, or substitute teach gym, social studies, or English language arts. The teaching schedule that I was assigned did not provide me, with the adequate training that I needed as a developing teacher.

Page 3 of 4

17. More importantly, the Principal is usually charged with ensuring that the teacher is prepared for tenure. This did not occur with me, being the oldest and the only African American teacher.
18. In an 18month teaching cycle, I taught for eight months without adequate mentoring.
19. In contrast younger white teachers were prepared for tenure. And other younger, and white teachers were accused of touching students inappropriately and were not removed from their duties. Administration did everything to keep the teacher on the premises, and their teaching schedule was never interrupted.

Disability

20. On June 6th, 2014 I was on a field trip when several people engaged in a tug of war game fell on my leg during the game. As a result my leg was broken in several places(tibia and fibula) I was taken to Jamaica Hospital Center, where I was hospitalized for five days. I suffered a debilitating injury that was known to Mr. Small very early on because he was present when the injury occurred. Upon being released from the hospital, I was bed ridden, for six weeks and required a wheel chair for mobility for at least two months; I received nursing care from the Visiting Nurse Service for at least four weeks where they administered blood thinners abdominally; I remained on the powerful drug Oxycontin for most of my debilitating injury; I wore a cast on my leg from the tip of my toes to my hip; and as soon as the cast was removed in early September of 2014, I underwent extensive physical therapy for three hours per week for three weeks each day that continue well over one year after my injury and only ceased because I was no longer able to afford the treatments.
21. As a result of my injury, my major life activities of walking, running, ascending and descending stairs and bending was limited substantially. I still use Access-a-Ride to travel at times. Based on there seriousness of my injuries, I was granted LODI by the DOE physicians from June 9th, until January 8th, 2015. As a consequence I have developed an arthritic condition, which was known to Mr. Small.
22. In May 15, 2015 a letter was sent to me denying my request of an extension of Line Of Duty Injury Leave(01/09/2015-02/02/2015) due to a pre-existing condition. In that letter I was informed to notify the Department of Education of my intention to return to work and the next steps, in view of their denial of my extension of LODI leave.
23. On June 11, 2015, unbeknownst to me, Superintendent Stallings-Harte, pursuant to the recommendations of the tripartite committee convened pursuant to DOE Bylaws Article 4, section 4.3.2, sent out a letter reversing her previous action to deny Completion of Probation.
24. On June 13th I sent out an email to Superintendent Stallings-Harte and a certified letter stating my intentions to return to work with reasonable accommodations:

Page 4 of 4

access to elevator, flexible time to sit or rest after standing for more than an hour, additional time to move between classroom, and time and assistance to set up and break down science labs.

25. By letter dated June 16th, 2015 and mailed on June 17th, 2015, Superintendent Stallings-Harte advised me to disregard her prior letter and reaffirmed her initial decision to deny completion of my probation.
26. I have supporting documents to substantiate my claims, if and when such documents are needed.

Remedies:

- A. Reinstatement to Full-Duty status
- B. Reassignment to other school where I can make a difference.
- C. Retroactive seniority/tenure, back pay with interest, and benefits.
- D. Compensatory and Punitive Damages.
- E. Reasonable attorney fees: As a result of experiencing these discriminatory actions, I have had to hire legal counsel in order to achieve vindication and defend my rights under the law.
- F. Out of pocket expenses: I have also had to expense money on doctors and other professionals in reference to the treatment of my injury incurred in the performance of my duties despite the fact that injury in question took place while performing my duty and the costs should have been covered by the DOE.
- G. Prevent character assignation, and the besmirching my name with potential employers: potential employers are excited at my phone interview, personal interview and my demonstration lessons. However, once they contact the last place of employment, I am always declined from the position. In many instances, I am more than qualified for the positions.

(sign)



02/11/2016
Date

STATE OF NEW YORK

COUNTY OF KINGS

SIGNED BEFORE ME ON 2/11/2016

EDGAR D. TELEFONTO



KAMAL P. SONI
Notary Public, State of New York
No. 01SO6089949
Qualified in Kings County
Commission Expires March 31, 2019

Only litigants alleging age discrimination must answer Question #11.

11. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

☒ 60 days or more have elapsed.

☐ less than 60 days have elapsed.

12. The Equal Employment Opportunity Commission (*check one*):

☐ has not issued a Right to Sue letter.

☒ has issued a Right to Sue letter, which I
received on 01/23/2015
Date

NOTE: Attach a copy of the Right to Sue Letter from the Equal Employment Opportunity Commission to this complaint.

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, pre-judgment interest, costs, and attorney's fees.

E.T. 02/12/2016.

Dated: 02/11/2016


PLAINTIFF'S SIGNATURE

530 PARKSIDE Avenue. #3B
Address Brooklyn, N.Y. 11226
718-864-1070
Phone Number

01/23/2016

[Handwritten signature]

01/23/2016

01/23/2016

230 945210E Avenue
418-844-1040
0-F 01-448-814



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

Edgar D. Telesford
530 Parkside Avenue
Apt. # 3B
Brooklyn, NY 11226

Re: EEOC Charge No. 520-2015-01375
Edgar D. Telesford v. New York City Board of Education

Dear Mr. Telesford:

The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") has reviewed the above-referenced charge according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have examined your charge based upon the information and evidence you submitted. You allege you were discriminated against because of your Race (Black), Age (DOB:7-28-1958), Disability and subjected to Retaliation, Harassment and hostile work environment from Respondent (New York City Board of Education), when you were terminated from your position.

Respondent's position statement has been previously shared with you. Your rebuttal to this position statement has been received and analyzed. Based upon this analysis the Commission is unable to conclude that the information establishes a violation of Federal law on the part of Respondent. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. Included with this letter is your Notice of Dismissal and Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost.

Please contact Roxanne Zygmund at phone number (212) 336-3764 if you have any questions.

Sincerely,


Kevin J. Berry
District Director

NOV 19 2015
Date

cc: Antonia Kousoulas, Esq.
48 Wall Street, 25th Floor
New York, NY 10005

EEOC Form 181 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Edgar D. Telesford**
530 Parkside Avenue
Apt# 3B
Brooklyn, NY 11226

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2015-01375

Roxanne Zygmund,
Investigator

(212) 336-3764

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission

Kevin J. Berry
Kevin J. Berry,
District Director

NOV 19 2015

Enclosures(s)


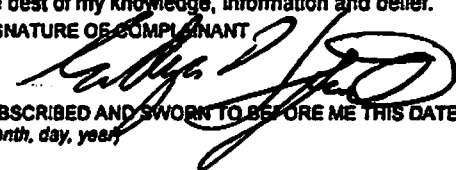

(Date Mailed)

cc:

Henry Chou, Esq.
Office of Legal Services
NYC DEPARTMENT OF EDUCATION
52 Chambers Street, Room 308
New York, NY 10007

Antonia Kousoulas, Esq.
Kousoulas & Associates, P.C.
48 Wall Street, 25th Floor
New York, NY 10005

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 520-2015-01375 </div> </div>	
New York State Division Of Human Rights and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) Mr. Edgar D. Telesford		Home Phone (Incl. Area Code) (718) 693-1637	
Date of Birth 07-28-1959			
Street Address City, State and ZIP Code 530 Parkside Avenue, Apt# 3b, Brooklyn, NY 11226			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name New York City Department of Education ATTN: Robin Singer, Associate Counsel, Ofc of Legal Services		No. Employees, Members Phone No. (Include Area Code) 500+ (212) 374-6888	
Street Address City, State and ZIP Code 52 Chambers Street, Room 308 New York, NY 10017			
Name East New York Middle School of Excellence		No. Employees, Members Phone No. (Include Area Code) (718) 257-4061	
Street Address City, State and ZIP Code 605 Shepherd Avenue, Brooklyn, NY 11208			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest <div style="text-align: right; margin-top: 10px;"> 12/3/2015 </div> <div style="margin-top: 10px;"> <input type="checkbox"/> CONTINUING ACTION </div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <div style="text-align: center; margin-top: 20px;"> SEE ATTACHED STATEMENT. </div> <div style="text-align: center; margin-top: 50px;">  </div> <div style="position: absolute; right: 50px; top: 50px; transform: rotate(90deg); font-weight: bold; font-size: 1.2em;"> RECEIVED 2015 FEB 20 PM 4:02 EEOC NEW YORK DISTRICT OFFICE </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
Date Feb 20, 2015  Charging Party Signature		Date _____	